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SECRETARY OF STATE

STATE OF MAINE  
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SECRETARY OF STATE

**TESTIMONY OF SECRETARY OF STATE MATT DUNLAP**

**IN OPPOSITION**

***LD 1637, An Act to Ensure Maine Is in Compliance with Certain Drug Laws***

**Before the Joint Standing Committee on Criminal Justice and Public Safety**

**June 14, 2017**

Senator Rosen, Representative Warren, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety; my name is Matt Dunlap of Old Town, and I serve as the Secretary of State for the State of Maine.

I applaud both the Executive and this Legislature for stridently addressing the symbiotic problems of addiction and the illicit drug supply in Maine. With many high-profile drug arrests even in my bucolic home of Old Town, these issues represent some of the most complex and dangerous issues of our day.

It is not in spite of these complexities and dangers, but rather because of them, that I stand in opposition to this legislation.

It is a matter of principle that we oppose this legislation. Maine is a rural state. While we do have our urban centers, we lack much of the mass transit that conveys the many skilled employees who make our economy churn out the promise of tomorrow from their homes to their workspaces. Overwhelmingly, in Maine, we drive to where we need to be.

Many times I have cautioned this committee, as well as others in this Legislature, against the temptation offered by the 10,000-pound weight with which we pledge to crush the Faceless Menace. And those are easy to illuminate: the drunk driver, the habitual offender, the distracted driver texting on their cell phone prior to plowing into a crowd of people. We always ask you to remember: These are not monsters; these are our neighbors, our friends, and our family. People do make mistakes, and we want them to move on and be productive in their lives.

Even the vertical prospect of “permanent revocation” is not that. That narrow demographic of drivers may yet petition for a hearing to obtain new credentials after a ten-year revocation period for manslaughter while operating under the influence of alcohol or drugs—with the provision that the family of the lost may present testimony at the hearing about whether or not the revoked driver should be allowed to drive again.

The driver’s license, because of its necessity and utility, is a handy bit of leverage. We do suspend the license of a driver for failure to pay child support, after notice from the Department of Health and Human Services. Likewise, we suspend credentials for failure to pay fines, and we already suspend licenses for underage drivers for possession of marijuana and other drugs. License suspensions were first instituted for three primary goals; to remove dangerous drivers from the road, to change driving behavior and to punish unsafe drivers. Driving and the possession of a valid driver’s license is important to almost everyone.

However, to impose a driver suspension for a social non-conformance violation or something other than a highway safety reason and the belief that a driver license suspension provides effective, sustainable motivation to encourage individuals to comply with court orders or legislated mandates is not supported by empirical data.

Creation and implementation of suspensions for non-highway safety related reasons generates unnecessary costs and creates a burden on the driver licensing authority, the courts and law enforcement. The costs to create the suspension in the computer system as well as the cost in personnel time and supplies are costs not justified by the end result. Suspending for non-traffic safety related reasons requires the licensing authority to operate outside the core mission of ensuring highway safety.

Since 1989 the legislature has rejected five bills requiring the suspension of driver's licenses for drug offenses not committed by use of a motor vehicle. Furthermore, all governors since John R. McKernan have continued the longstanding practice by certification of non-compliance, including Governor Paul R. LePage, who decided in March of 2016 that he could no longer certify non-compliance "in good conscience," given Maine's "serious drug problem." The question is: Why and how does compliance with the federal statute, 23 U.S.C. §159, remediate the state's serious drug problem?

A mere 12 states, down from 34 in 2004, demonstrate compliance by the adoption of state laws suspending the drivers licenses of a person convicted for drug offenses not involving the operation of a motor vehicle. The national trend is clearly opposed to the suspension of driver's licenses for non-motor conduct.

As I mentioned, though, there are exceptions. This illustrates that such decisions are policy choices made by the Legislature, and if the Legislature chooses to embrace such suspensions, rest assured that we will vigorously enforce the administrative law.

The catch is that as I make my way through the halls every session day, I am frequently asked by members about this constituent issue or that involving a suspended driver's license. I believe what I hear: "He's come around," or "She needs to get her mother to the doctor," or "They really need to work to support their family." And it's all true. But in court-ordered suspensions, and many administrative suspensions, the Secretary of State has little to no discretion in granting any type of relief—either from the suspension in any way, or in the granting of work permits, which are issued so rarely as to be an almost legendary device.

The loss of a driver's license has a huge impact on an individual. In many cases, that loss of independence affects their ability to make a living or to live on their own without depending on friends and family to get around. This is difficult enough for those convicted of serious driving offenses. But what do we tell people who've lost their licenses for non-driving offenses? As it is now, people who lose their licenses for failure to pay child support complain mightily to me that they can't very well pay their child support if they can't work, now, can they?

Ladies and gentlemen of the committee, I am not an expert on drug enforcement or drug rehabilitation. But I do know what people struggle with, every day, when they cannot travel or work. I urge you to contemplate these facts, and vote Ought Not to Pass on this legislation.

I am happy to answer any questions I can, now or for the work session, at the pleasure of the Chair.